

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

CHRISTOPHER KILPATRICK,  
Plaintiff,  
-against-  
COMMISSIONER OF SOCIAL  
SECURITY,  
Defendant.

**ORDER OF DISMISSAL**

23-cv-4039 (JW)

**JENNIFER E. WILLIS, United States Magistrate Judge.**

The Court notes that Plaintiff in this action is represented by counsel. On May 19, 2023, this Court issued a scheduling order which said, “[n]o later than 30 days after the e-CAR is filed, plaintiff shall file his or her motion for judgment on the pleadings.” Dkt. No. 13 at 2 (emphasis in the original). The eCar was filed on September 29, 2023. Dkt. No. 20. Plaintiff’s motion was due by October 30, 2023. See Dkt. Nos. 13, 21, 22. To date, no motion has been filed.

On December 1, 2023, this Court issued an order noting that no motion had been file by the deadline and ordered Plaintiff to file an explanatory letter December 8, 2023. Dkt. No. 21. No such letter was filed.

On December 13, 2023, this Court issued another order directing Plaintiff to show cause as to why this action should not be dismissed for failure to prosecute by December 29, 2023. Dkt. No. 22. The December 13<sup>th</sup> order to show cause noted that failure to comply with the Court’s order and respond by the scheduled deadline could result in dismissal of this action. *Id.* To date, Plaintiff has not responded to the order to show cause.

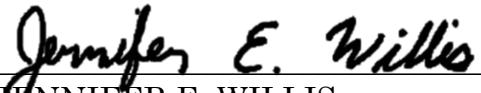
Accordingly, pursuant to Federal Rule of Civil Procedure 41(b) and the

Court's inherent power, see Link v. Wabash R.R. Co., 370 U.S. 626, 630-32 (1962), the Court hereby dismisses this case, without prejudice, for failure to prosecute.

**The Clerk of the Court is respectfully directed to close this case.**

SO ORDERED.

Dated:        New York, New York  
                  January 5, 2024

  
JENNIFER E. WILLIS  
United States Magistrate Judge